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IN THE

Supreme Court of the United States

Misc. No. 248

KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETARO SHIMADA and SHIGENORI TOGO, citizens and nationals of Japan, appearing by their attorney and next friend, William Logan, Jr.,

Petitioners,

vs.

1. General of the Army Douglas MacArthur, individually and as General of the Army of the United States in the Military Occupied Territory of Japan and as Supreme Commander for the Allied Powers. 2. Lieut. General Walton H. Walker, individually and as Commander of the 8th Army of the United States in the Military Occupied Territory of Japan. 3. James V. Forrestal, individually and as Secretary of National Defense of the United States, and 4. Kenneth C. Royall, individually and as Secretary, Department of the Army of the United States, and 5. General Omar H. Bradley, individually and as Chief of Staff of the United States Army,

Defendants.

MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF HABEAS CORPUS, PETITION FOR WRIT OF HABEAS CORPUS AND AFFIDAVIT IN *FORMA PAUPERIS*

JOHN W. CRANDALL,
Attorney for Petitioners.

WILLIAM LOGAN, JR.,
JOHN G. BRANNON,
BEN BRUCE BLAKENEY,
JAMES N. FREEMAN,
Of Counsel.

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Petitioners,

vs.

General of the Army Douglas MacArthur, individually and as General of the Army of the United States in the Military Occupied Territory of Japan and as Supreme Commander for the Allied Powers; *et al.*,

Defendants.

Motion for Leave to File Annexed Petition for a Writ of Habeas Corpus on Behalf of Koichi Kido, Takasumi Oka, Kenryo Sato, Shigetaro Shimada and Shigenori Togo

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

And now come the Petitioners, KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETARO SHIMADA and SHIGENORI TOGO, by their attorney and next friend, William Logan, Jr., and by John W. Crandall, their attorney of record, and move this Honorable Court to enter an order allowing the annexed Petition for a Writ of Habeas Corpus on behalf of KOICHI KIDO, TAKASUMI OKA, KENRYO SATO,

Motion for Leave to File Annexed Petition for a Writ of Habeas Corpus on Behalf of Koichi Kido, Takasumi Oka, Kenryo Sato, Shigetaro Shimada and Shigenori Togo

SHIGETARO SHIMADA and SHIGENORI TOGO to be filed and prosecuted.

KOICHI KIDO,
TAKASUMI OKA,
KENRYO SATO,
SHIGETARO SHIMADA,
SHIGENORI TOGO.

By WILLIAM LOGAN, JR.,
Their Attorney and Next Friend.

JOHN W. CRANDALL,
Attorney of Record for Petitioners.

Petition for Writ of Habeas Corpus

IN THE

SUPREME COURT OF THE UNITED STATES

Misc. No. 248

KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETARO SHIMADA and SHIGENORI TOGO, citizens and nationals of Japan, appearing by their attorney and next friend, William Logan, Jr.,

Petitioners,

vs.

1. General of the Army Douglas MacArthur, individually and as General of the Army of the United States in the Military Occupied Territory of Japan and as Supreme Commander for the Allied Powers. 2. Lieut. General Walton H. Walker, individually and as Commander of the 8th Army of the United States in the Military Occupied Territory of Japan. 3. James V. Forrestal, individually and as Secretary of National Defense of the United States, and 4. Kenneth C. Royall, individually and as Secretary, Department of the Army of the United States, and 5. General Omar H. Bradley, individually and as Chief of Staff of the United States Army,

Defendants.

The Petitions of KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETARO SHIMADA and SHIGENORI TOGO, citizens and nationals of Japan, respectfully represent to the Honorable The Chief Justice and Associate Justices of the Supreme Court of the United States, the following:

1. The Defendant, General of the Army Douglas MacArthur is a citizen of the United States, and is sued individually and as General of the Army of the United States in the Military Occupied Territory of Japan

and in his capacity as Supreme Commander for the Allied Powers and also as a person who has the efficient custody and control of the Petitioners.

2. The Defendant, Lieut. General Walton H. Walker is a citizen of the United States and is sued individually and as Commander of the 8th Army of the United States in the Military Occupied Territory of Japan and as a person who has the immediate custody of the Petitioners.

3. The Defendant, James V. Forrestal is a citizen of the United States, and is sued herein individually and as Secretary of National Defense of the United States and as a person who has the power to command the Defendants, General of the Army Douglas MacArthur, Lieut. General Walton H. Walker and General Omar H. Bradley.

4. The Defendant, Kenneth C. Royall is a citizen of the United States and is sued herein individually and as Secretary of the Department of the Army of the United States and also as a person who has the efficient power to control the official acts of General of the Army Douglas MacArthur, Lieut. General Walton H. Walker and General Omar H. Bradley.

5. The Defendant, General Omar H. Bradley, is a citizen of the United States and is sued herein individually and as Chief of Staff of the United States Army, serving directly under the Secretary of National Defense of the United States and the Secretary of the Department of the Army of the United States, and also as a person who has within his charge and under his authority the officers and men of the United States Army, who have within their custody and control the Petitioners herein.

6. Petitioners were arrested and taken into custody upon an order issued by the Commanding General of the United States 8th Army of Japan and confined to Sugamo Prison in Tokyo, Japan, in the latter part of 1945, and the Petitioners have been detained in said prison ever since.

7. Petitioners allege that they have been unlawfully imprisoned and restrained of their liberty continuously since the latter part of 1945 by reason of illegal actions taken by the Defendants herein, all of which will more specifically appear hereinafter.

8. On December 1, 1943, the United States of America, the Republic of China, and the United Kingdom, by the heads of their respective Governments, proclaimed as follows:

"THE CAIRO CONFERENCE

UNITED STATES OF AMERICA: PRESIDENT ROOSEVELT
CHINA: GENERALISSIMO CHIANG KAI-SHEK
UNITED KINGDOM: PRIME MINISTER CHURCHILL

Statement Released December 1, 1943

"The several military missions have agreed upon future military operations against Japan. The Three Great Allies expressed their resolve to bring unrelenting pressure against their brutal enemies by sea, land, and air. This pressure is already rising.

"The Three Great Allies are fighting this war to restrain and punish the aggression of Japan. They covet no gain for themselves and have no thought of territorial expansion. It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War of 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China. Japan will also be expelled from

all other territories which she has taken by violence and greed. The aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

"With these objects in view the three Allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan."

9. On July 26, 1945, a proclamation was issued by the heads of the Governments of the United States, United Kingdom, and China, known as the Potsdam Declaration, which reads as follows:

"POTSDAM DECLARATION

PROCLAMATION BY HEADS OF GOVERNMENTS, UNITED STATES, UNITED KINGDOM, AND CHINA

"(1) We—the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

"(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceased to resist.

"(3) The result of the futile and senseless German resistence to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which,

when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the methods of life of the whole German people. The full application of our military power, backed by our resolve, *will* mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

"(4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

"(5) *Following are our terms.* We will not deviate from them. There are no alternatives. We shall brook no delay.

"(6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

"(7) Until such a new order is established *and* until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

"(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

"(9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.

"(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, includ-

ing those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights, shall be established.

"(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

"(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

"(13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction."

10. On September 2, 1945, on board the *U. S. S. Missouri* an instrument of surrender on behalf of the Japanese Empire was signed and which reads as follows:

"INSTRUMENT OF SURRENDER

"We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the heads of the Governments of the United States, China, and Great Britain on 26 July 1945 at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers.

"We hereby proclaim the unconditional surrender to the Allied Powers of the Japanese Imperial General Headquarters and of all Japanese armed forces and all armed forces under Japanese control wherever situated.

"We hereby command all Japanese forces wherever situated and the Japanese people to cease hostilities forthwith, to preserve and save from damage all ships, aircraft, and military and civil property and to comply with all requirements which may be imposed by the Supreme Commander for the Allied Powers or by agencies of the Japanese Government at his direction.

"We hereby command the Japanese Imperial General Headquarters to issue at once orders to the Commanders of all Japanese forces and all forces under Japanese control wherever situated to surrender unconditionally themselves and all forces under their control.

"We hereby command all civil, military and naval officials to obey and enforce all proclamations, orders and directives deemed by the Supreme Commander for the Allied Powers to be proper to effectuate this surrender and issued by him or under his authority and we direct all such officials to remain at their posts and to continue to perform their non-combatant duties unless specifically relieved by him or under his authority.

"We hereby undertake for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith, and to issue whatever orders and take whatever action may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration.

"We hereby command the Japanese Imperial Government and the Japanese Imperial General Headquarters at once to liberate all allied prisoners of war and civilian internees now under Japanese control and to provide for their protection, care, maintenance and immediate transportation to places as directed.

"The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate these terms of surrender.

"Signed at Tokyo Bay, Japan, at 0904 on the Second day of September, 1945.

"MAMORU SHIGEMITSU
By Command and in behalf of the Emperor of Japan and the Japanese Government.

YOSHIJIRO UMEZU
By Command and in behalf of the Japanese Imperial General Headquarters.

"Accepted at Tokyo Bay, Japan at 0908 on the Second day of September, 1945 for the United States, Republic of China, United Kingdom and the Union of Soviet Socialist Republics, and in the interests of the other United Nations at war with Japan.

DOUGLAS MACARTHUR
Supreme Commander for the Allied Powers

"C. W. NIMITZ
United States
Representative

HSU YUNG-CHANG
Republic of China
Representative

BRUCE FRASER
United Kingdom
Representative

LIEUTENANT GENERAL
K. DEREVYANKO
Union of Soviet
Socialist Republics
Representative

T. A. BLAMEY
Commonwealth of
Australia
Representative

L. MOORE COSGRANE
Dominion of Canada
Representative

LE CLERC
Provisional Government of
the French Republic
Representative

C. E. L. HELFRICH
Kingdom of the Netherlands
Representative

LEONARD M. ISITT
Dominion of New Zealand Representative"

11. On September 2, 1945, the following proclamation was issued by the Emperor of Japan:

"PROCLAMATION BY THE EMPEROR OF JAPAN

"Accepting the terms set forth in the Declaration issued by the heads of the Governments of the United States, Great Britain and China on July 26, 1945, at Potsdam and subsequently adhered to by the Union of Soviet Socialist Republics, I have commanded the Japanese Imperial Government and the Japanese Imperial General Headquarters to sign on my behalf the instrument of surrender presented by the Supreme Commander for the Allied Powers and to issue General Orders to the Military and Naval forces in accordance with the direction of the Supreme Commander for the Allied Powers. I command all my people forthwith to cease hostilities, to lay down their arms and faithfully to carry out all the provisions of the instrument of surrender and the General Orders issued by the Japanese Imperial General Headquarters thereunder."

12. On January 19, 1946, the Defendant, General of the Army Douglas MacArthur, acting in his capacity as General of the Army of the United States and Supreme Commander for the Allied Powers, issued a special proclamation at Tokyo, Japan, for the establishment of an International Military Tribunal for the Far East, which reads as follows:

"SPECIAL PROCLAMATION

ESTABLISHMENT OF AN INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

"WHEREAS, the United States and the Nations allied therewith in opposing the illegal wars of aggression of the Axis Nations, have from time to time made declarations of their intentions that war criminals should be brought to justice;

"WHEREAS, the Governments of the Allied Powers at war with Japan on the 26th July 1945 at Potsdam, declared as one of the terms of surrender that stern justice shall be meted out to all war criminals including those who have visited cruelties upon our prisoners;

"WHEREAS, by the Instrument of Surrender of Japan executed at Tokyo Bay, Japan, on the 2nd September 1945, the signatories for Japan, by command of and in behalf of the Emperor and the Japanese Government accepted the terms set forth in such Declaration at Potsdam;

"WHEREAS, by such Instrument of Surrender, the authority of the Emperor and the Japanese Government to rule the state of Japan is made subject to the Supreme Commander for the Allied Powers, who is authorized to take such steps as he deems proper to effectuate the terms of surrender;

"WHEREAS, the undersigned has been designated by the Allied Powers as Supreme Commander for the Allied Powers to carry into effect the general surrender of the Japanese armed forces.

"WHEREAS, the Governments of the United States, Great Britain and Russia at the Moscow Conference, 26th December 1945, having considered the effectuation by Japan of the Terms of Surrender, with the concurrence of China have agreed that the Supreme Commander shall issue all Orders for the implementation of the Terms of Surrender.

"NOW, THEREFORE, I, Douglas MacArthur, as Supreme Commander for the Allied Powers, by virtue of the authority so conferred upon me, in order to implement the Term of Surrender which requires the meting out of stern justice to war criminals, do order and provide as follows:

"ARTICLE 1. There shall be established an international Military Tribunal for the Far East for the trial of those persons charged individually, or as members

of organizations, or in both capacities, with offenses which include crimes against peace.

"ARTICLE 2. The Constitution, jurisdiction and functions of this Tribunal are those set forth in the Charter of the International Military Tribunal for the Far East, approved by me this day.

"ARTICLE 3. Nothing in this Order shall prejudice the jurisdiction of any other international, national or occupation court, commission or other tribunal established or to be established in Japan or in any territory of a United Nation with which Japan has been at war, for the trial of war criminals.

"Given under my hand at Tokyo, this 19th day of January, 1946.

DOUGLAS MACARTHUR,
General of the Army, United States Army
Supreme Commander for the Allied Powers."

13. On April 26, 1946, General of the Army Douglas MacArthur issued General Orders No. 20, amending General Orders No. 1; which promulgated the Charter of the International Military Tribunal for the Far East as follows:

"GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

APO 500
26 April 1946

GENERAL ORDERS
No. 20

"General Orders No. 1, General Headquarters, Supreme Command for the Allied Powers, 19 January 1946, subject as below, is superseded. The Charter of the International Military Tribunal for the Far East

established by Proclamation of the Supreme Commander for the Allied Powers, 19 January 1946, is amended, and as amended, reads as follows:

"CHARTER OF THE
INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

SECTION I

CONSTITUTION OF TRIBUNAL

"ARTICLE 1. *Tribunal Established.* The International Military Tribunal for the Far East is hereby established for the just and prompt trial and punishment of the major war criminals in the Far East. The permanent seat of the Tribunal is in Tokyo.

"ARTICLE 2. *Members.* The Tribunal shall consist of not less than six members nor more than eleven members, appointed by the Supreme Commander for the Allied Powers from the names submitted by the Signatories to the Instrument of Surrender, India, and the Commonwealth of the Philippines.

"ARTICLE 3. *Officers and Secretariat.*

"a. *President.* The Supreme Commander for the Allied Powers shall appoint a Member to be President of the Tribunal.

"b. *Secretariat.*

"(1) The Secretariat of the Tribunal shall be composed of a General Secretary to be appointed by the Supreme Commander for the Allied Powers and such assistant secretaries, clerks, interpreters, and other personnel as may be necessary.

"(2) The General Secretary shall organize and direct the work of the Secretariat.

"(3) The Secretariat shall receive all documents addressed to the Tribunal, main-

tain the records of the Tribunal, provide necessary clerical services to the Tribunal and its members, and perform such other duties as may be designated by the Tribunal.

"ARTICLE 4. *Convening and Quorum, Voting and Absence.*

"a. *Convening and Quorum.* When as many as six members of the Tribunal are present, they may convene the Tribunal in formal session. The presence of a majority of all members shall be necessary to constitute a quorum.

"b. *Voting.* All decisions and judgments of this Tribunal, including convictions and sentences, shall be by a majority vote of those members of the Tribunal present. In case the votes are evenly divided, the vote of the President shall be decisive.

"c. *Absence.* If a member at any time is absent and afterwards is able to be present, he shall take part in all subsequent proceedings; unless he declares in open court that he is disqualified by reason of insufficient familiarity with the proceedings which took place in his absence.

"SECTION II

JURISDICTION AND GENERAL PROVISIONS

"ARTICLE 5. *Jurisdiction Over Persons and Offenses.* The Tribunal shall have the power to try and punish Far Eastern war criminals who as individuals or as members of organizations are charged with offenses which include Crimes against Peace. The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

"a. *Crimes against Peace*: Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or assurances,

or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

"b. *Conventional War Crimes*: Namely, violations of the laws or customs of war;

"c. *Crimes against Humanity*: Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed before or during the war, or prosecutions on political or racial grounds in execution of or in connection wth any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.

"ARTICLE 6. *Responsibility of Accused.* Neither the official position, at any time, of any accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

"ARTICLE 7. *Rules of Procedure.* The Tribunal may draft and amend rules of procedure consistent with the fundamental provisions of this Charter.

"ARTICLE 8. *Counsel.*

"a. *Chief of Counsel.* The Chief of Counsel designated by the Supreme Commander for the Allied Powers is responsible for the investigation and prosecution of charges against war criminals within the jurisdiction of this Tribunal and will render such legal assistance to the Supreme Commander as is appropriate.

"b. *Associate Counsel.* Any United Nation with which Japan has been at war may appoint an Associate Counsel to assist the Chief of Counsel.

"SECTION III

"FAIR TRIAL FOR ACCUSED

"ARTICLE 9. *Procedure for Fair Trial.* In order to insure fair trial for the accused the following procedure shall be followed:

"a. *Indictment.* The indictment shall consist of a plain, concise, and adequate statement of each offense charged. Each accused shall be furnished, in adequate time for defense, a copy of the indictment, including any amendment, and of this Charter, in a language understood by the accused.

"b. Language. The trial and related proceedings shall be conducted in English and in the language of the accused. Translations of documents and other papers shall be provided as needed and requested.

"c. *Counsel for Accused.* Each accused shall have the right to be represented by counsel of his own selection, subject to the disapproval of such counsel at any time by the Tribunal. The accused shall file with the General Secretary of the Tribunal the name of his counsel. If an accused is not represented by counsel and in open court requests the appointment of counsel, the Tribunal shall designate counsel for him. In the absence of such request the Tribunal may appoint counsel for an accused if in its judgment such appointment is necessary to provide for a fair trial.

"d. *Evidence for Defense.* An accused shall have the right, through himself or through his counsel (but not through both), to conduct his defense, including the right to examine any witness, subject to such reasonable restrictions as the Tribunal may determine.

"e. *Production of Evidence for the Defense.* An accused may apply in writing to the Tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located. It shall also state the facts proposed to be proved by the witness or the document and the relevancy of such facts to the defense. If the

Tribunal grants the application the Tribunal shall be given such aid in obtaining production of the evidence as the circumstances require.

"ARTICLE 10. *Applications and Motions before Trial.* All motions, applications, or other requests addressed to the Tribunal prior to the commencement of trial shall be made in writing and filed with the General Secretary of the Tribunal for action by the Tribunal.

"SECTION IV

POWERS OF TRIBUNAL AND CONDUCT OF TRIAL

ARTICLE 11. *Powers.* The Tribunal shall have the power:

"a. To summon witnesses to the trial, to require them to attend and testify, and to question them.

"b. To interrogate each accused and to permit comment on his refusal to answer any questions.

"c. To require the production of documents and other evidentiary material.

"d. To require of each witness an oath, affirmation, or such declaration as is customary in the country of the witness, and to administer oaths.

"e. To appoint officers for the carrying out of any task designated by the Tribunal, including the power to have evidence taken on commission.

"ARTICLE 12. *Conduct of Trial.* The Tribunal shall:

"a. Confine the trial strictly to an expeditious hearing of the issues raised by the charges.

"b. Take strict measures to prevent any action which would cause any unreasonable delay and rule out irrelevant issues and statements of any kind whatsoever.

"c. Provide for the maintenance of order at the trial and deal summarily with any contumacy, imposing

appropriate punishment, including exclusion of any accused or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

"d. Determine the mental and physical capacity of any accused to proceed to trial.

"ARTICLE 13. *Evidence.*

"a. *Admissibility.* The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure; and shall admit any evidence which it deems to have probative value. All purported admissions or statements of the accused are admissible.

"b. *Relevance.* The Tribunal may require to be informed of the nature of any evidence before it is offered in order to rule upon the relevance.

"c. *Specific evidence admissible.* In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

"(1) A document, regardless of its security classification and without proof of its issuance or signature, which appears to the Tribunal to have been signed or issued by any officer, department, agency or member of the armed forces of any government.

"(2) A report which appears to the Tribunal to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or any medical service personnel, or by an investigator or intelligence officer, or by any other person who appears to the Tribunal to have personal knowledge of the matters contained in the report.

"(3) An affidavit, deposition or other signed statement.

"(4) A diary, letter or other document, including sworn or unsworn statements, which appear to the Tribunal to contain information relating to the charge.

"(5) A copy of a document or other secondary evidence of its contents, if the original is not immediately available.

"d. *Judicial Notice.* The Tribunal shall neither require proof of facts of common knowledge, nor of the authenticity of official government documents and reports of any nation nor of the proceedings, records, and findings of military or other agencies of any of the United States.

"e. *Records, Exhibits, and Documents.* The transcript of the proceedings, and exhibits and documents submitted to the Tribunal, will be filed with the General Secretary of the Tribunal and will constitute part of the Record.

"ARTICLE 14. *Place of Trial.* The first trial will be held at Tokyo, and any subsequent trials will be held at such places as the Tribunal decides.

"ARTICLE 15. *Course of Trial Proceedings.* The proceedings at the Trial will take the following course:

"a. The indictment will be read in court unless the reading is waived by all accused.

"b. The Tribunal will ask each accused whether he pleads 'guilty' or 'not guilty.'

"c. The prosecution and each accused (by counsel only, if represented) may make a concise opening statement.

"d. The prosecution and defense may offer evidence, and the admissibility of the same shall be determined by the Tribunal.

"e. The prosecution and each accused (by counsel only, if represented) may examine each witness and each accused who gives testimony.

"f. Accused (by counsel only, if represented) may address the Tribunal.

"g. The prosecution may address the Tribunal.

"h. The Tribunal will deliver judgment and pronounce sentence.

"SECTION V

JUDGMENT AND SENTENCE

"ARTICLE 16. *Penalty.* The Tribunal shall have the power to impose upon an accused, on conviction, death, or such other punishment as shall be determined by it to be just.

"ARTICLE 17. *Judgment and Review.* The judgment will be announced in open court and will give the reasons on which it is based. The record of the trial will be transmitted directly to the Supreme Commander for the Allied Powers for his action. Sentence will be carried out in accordance with the Order of the Supreme Commander for the Allied Powers, who may at any time reduce or otherwise alter the sentence, except to increase its severity.

"By command of General MacArthur:

"RICHARD J. MARSHALL
Major General, General Staff Corps,
Chief of Staff

OFFICIAL:

/s/ B. M. Fitch
B. M. FITCH,
Brigadier General, AGD,
Adjutant General."

14. On February 15, 1946, General of the Army Douglas MacArthur, acting on behalf of 11 governments comprising the Allied Powers, including the Government

of the United States of America, appointed nominees of each of the Allied Powers to act as judges on the International Military Tribunal for the Far East, and in a trial thereafter conducted by said Tribunal, as hereinafter set forth, General of the Army Douglas MacArthur substituted another judge as the nominee of the United States after the trial had been in progress approximately three months. Two of the judges so appointed were military officers in active service of the countries which nominated them.

15. Petitioner, KOICHI KIDO, never held a military office or position at any tme. He served as Chief Secretary to the Lord Keeper of the Privy Seal from 1930 to 1936, a member of the cabinet as Education Minister, Welfare Minister and Home Minister from October 22, 1937 to August, 1939, and Lord Keeper of the Privy Seal from June 1, 1940 to September 2, 1945. As Lord Keeper of the Privy Seal, his chief duty was to consult with the Emperor and keep him advised on current affairs. Petitioner, TAKASUMI OKA, was an officer in the Japanese Navy. In October, 1940, he was promoted to Rear Admiral, Chief of the Naval Affairs Bureau of the Navy Ministry, which office he held until July, 1944. Petitioner, KENRYO SATO, was appointed Chief of the Military Affairs Section of the Military Affairs Bureau in February, 1941. He was promoted to Major General in October, 1941, and in April, 1942, he became Chief of the Military Affairs Bureau, which position he held until 1944. Petitioner, SHIGETARO SHIMADA, was an Admiral in the Japanese Navy and was appointed Navy Minister pursuant to seniority ratings on October 17, 1941, which position he held under the TOJO cabinet. Petitioner, SHIGENORI TOGO, was a career diplomat. He never held any military office or position

at any time. He served as Foreign Minister from October 17, 1941 until September 1942 when he resigned. He played no part in public life again until he became Foreign Minister in the SUZUKI cabinet of 1945. The Tribunal found that up to his resignation in 1942, your Petitioner SHIGENORI TOGO "endeavored to see to the observation of the rules of war", passing on such protests as came to him for investigation and in several instances remedial measures were taken."

16. The International Military Tribunal for the Far East conducted a trial under an indictment returned pursuant to the terms of the aforesaid charter, to which indictment your Petitioners pleaded "not guilty." The Tribunal took evidence for a period of approximately two years and on November 12, 1948, the Tribunal by a majority finding and judgment found all your Petitioners guilty of "crimes against peace" under Counts 1, 27, 29, 31 and 32 of the indictment. They were all found not guilty on all counts against them in the indictment charging "conventional war crimes" and "crimes against humanity." The counts charging "crimes against peace" upon which your Petitioners were convicted read as follows:

"Count 1

"All the accused together with other persons, between the 1st January, 1928, and the 2nd September, 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy, and are responsible for all acts performed by any person in execution of such plan.

"The object of such plan or conspiracy was that Japan should secure the military, naval, political and economic domination of East Asia and of the Pacific and Indian Oceans, and of all countries bordering

thereon and islands therein, and for that purpose they conspired that Japan should alone or in combination with other countries having similar objects, or who could be induced or coerced to join therein, wage declared or undeclared war or wars of aggression, and war or wars in violation of international law, treaties, agreements and assurances, against any country or countries which might oppose that purpose.

"The whole of the Particulars in Appendix A, of the Treaty Articles in Appendix B, and of the Assurances in Appendix C, relate to this Count."

"Count 27

"All the accused, between the 18th September, 1931, and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Republic of China.

"The same Particulars, Treaty Articles and Assurances as in Count 2, relate to this Count."

"Count 29

"All the accused, between the 7th December, 1941, and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the United States of America.

"The following Sections of the Particulars in Appendix A; Nos. 4 to 10 inclusive; and the same Treaty Articles and Assurances as in Count 20, relate to this Count."

"Count 31

"All the accused, between the 7th December, 1941, and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the British Commonwealth of Nations.

"The following Sections of the Particulars in Appendix A; Nos. 4 to 10 inclusive; and the same Treaty, Articles and Assurances as in Count 22, relate to this Count."

"Count 32

"All the accused, between the 7th December, 1941, and the 2nd September, 1945, waged a war of aggression and a war in violation of international law, treaties, agreements and assurances, against the Kingdom of the Netherlands.

"The same Particulars, Treaty Articles and Assurances as in Count 14, relate to this Count."

17. Pursuant to the finding and judgment of guilt by the International Military Tribunal for the Far East under the aforesaid indictment, the Tribunal sentenced all of your Petitioners to life imprisonment except your Petitioner, SHIGENORI TOGO, who was sentenced to serve twenty years in prison. Thereafter, within the period of one week allowed for an appeal by the General of the Army Douglas MacArthur, Petitioners did appeal citing various errors committed by the Tribunal during the course and proceedings of the trial.

18. On or about November 23, 1948, the defendant, General of the Army Douglas MacArthur denied the appeals of the Petitioners and issued an order commanding the defendant, Lieut. General Walton H. Walker, as Commander of the 8th Army of the United States in the Military Occupied Territory of Japan, to carry out the sentence as "pronounced by the Tribunal" as approved and affirmed by General of the Army Douglas MacArthur and Supreme Commander for the Allied Powers. Petitioners allege that they will be confined to prison under the aforesaid sentence unless afforded relief by this Honorable Court.

19. Your Petitioners allege that this Honorable Court has jurisdiction to issue the writ of Habeas Corpus requested herein and grant the relief sought under §§ 451 to 462, inclusive, of Title 28 of the United States Code, under the constitution, treaties, international engagements and laws of the United States. Petitioners, and each of them, are at the present time, and have been during their lengthy trial, imprisoned in Sugamo Prison, in Tokyo, Japan, solely within the custody, control and by color of the authority of officers and men of the United States Army. Petitioners, and each of them, are unjustly and unlawfully being so held, detained and deprived of their liberty and freedom, against their will and wishes and in violation of the Constitution and laws of the United States of America as will hereinafter be shown. Petitioners, and each of them, are in custody, as aforesaid, under and by color of authority of the United States. They were committed to trial before a tribunal constituted and created under color of the authority of the United States. Being subjects and citizens of a foreign state and domiciled therein, they are in custody for acts done or omitted to be done which they claim as legal and non-criminal by virtue of a right, privilege and protection growing out of and depending upon the Law of Nations. Petitioners, and each of them, at various times during the period set forth in the Indictment were holders of governmental positions, either civil or military, and as such were members of the Japanese Government. The said KOICHI KIDO and SHIGENORI TOGO were civilians and not members of the military or occupying any military position. The said TAKASUMI OKA, KENRYO SATO and SHIGETARO SHIMADA were members of the armed forces of Japan. The acts of petitioners, and each of them,

for which complaint was made and charges brought, were acts taken by them in their capacity as members of the Government of Japan. Insofar as their conduct and actions pertaining to the decision of the sovereign nation of Japan to resort to or wage war is concerned, petitioners, and each of them, were entitled to rely and depend upon the existing Law of Nations as the basis for the validity of said actions so taken. Upon these premises and upon further recital hereinafter to be made, the invoking of jurisdiction to this Honorable Court is prayed.

20. The International Military Tribunal for the Far East although allegedly an international juridical body dispensing and adhering to existing and established international law, was initially and is in reality a creation and enterprise of the Executive of the United States and the Military authorities thereunder. The Tribunal and Charter thereof were created by General of the Army Douglas MacArthur, of the Army of the United States, and Supreme Commander for the Allied Powers, solely under instruction and directive from the Joint Chiefs of Staff of the United States Armed Forces. Pursuant to and in accordance with the instruction and directive from the Joint Chiefs of Staff as aforesaid, on the 19th day of January, 1946, the said General Douglas MacArthur issued the aforesaid Special Proclamation establishing the Tribunal itself and at the same time promulgated the Charter in which is contained the enumeration and definition of the offenses under which these petitioners, and each of them, were subsequently subjected to trial.

21. The law enunciating the offenses as set forth in said Charter was binding on said Tribunal, voiding effective

adjudication of the validity of said offenses as existing international law, and was of the force and effect of a constitutional provision or legislative enactment. The promulgation of the law in said Charter bound the Tribunal to administer said law as set forth by the said General of the Army Douglas MacArthur, and to do so regardless of the source or validity of its creation. Insofar as the various offenses contained in the Charter are concerned these petitioners, and each of them, being convicted, as aforesaid, only of those offenses described as *Crimes against Peace*, the scope of this petition does not bring into issue the other offenses named. The definition of *Crimes against Peace* contained in said Charter is as follows:

> "*Crimes against Peace.* Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

The alleged offense of *Crimes against Peace* as defined in the said Charter of said Tribunal is not and was never international law for which individual liability was recognized. Such never existed as an offense in the courts, civil or military, of the United States, and such never existed as an offense in the courts, civil or military, of any other nation of the world.

22. The creation of said offense of *Crimes against Peace*, in the manner and means before set out, was in violation of the express provisions of the Constitution of the United States. The Constitution of the United States provides that the Congress shall define and punish for Offenses against the Law of Nations. (Article 1, Section 8, Clause 10.) The Congress has never

defined such a crime, either directly or indirectly, or by any other means, as an offense against the law of Nations. The legislative power of the United States could not have been and was not delegated to the Executive or the military authorities thereunder; and hence the action of the said General of the Army Douglas MacArthur in so setting forth and defining *Crimes against Peace* as an offense for which individual liability could attach was inconsistent with the precise terms of the Constitution of the United States and without the scope of his lawful power or authority. The Far Eastern Commission created at the Moscow Conference on December 26, 1945, by Executive Agreement between the foreign ministers of the United States, the United Kingdom, the Union of Soviet Socialist Republics, in concurrence with China, and whose function was to formulate the policies, principles and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender might be accomplished, issued no directive to General of the Army Douglas MacArthur as Supreme Commander for the Allied Powers regarding the creation of the said International Military Tribunal for the Far East or the establishment of the law under which it was to function until April, 1946, some months after said Tribunal and Charter were proclaimed under solely American direction and authority as heretofore set forth. The creation of said Tribunal and Charter was not the result of international treaty and the constitutional provisions reserving to the Congress of the United States the power, as aforesaid, prohibited and rendered nugatory the action so taken by the Executive of the United States and the military authorities thereunder.

23. The Executive of the United States and the military authorities thereunder, being legally incapable of es-

tablishing *Crimes against Peace* as an offense under the Law of Nations insofar as the United States is concerned, cannot establish such an offense against the Law of Nations insofar as the entire family of nations is concerned. Such action of the Executive or military authorities thereunder, whether taken on behalf of the United States alone or in conjunction and cooperation with other nations, remains completely without the sanction of constitutionality.

24. The Constitution and laws of the United States do not permit the Executive of the United States or the military authorities thereunder to create, or participate in the creation of, a national or international military court or tribunal which asserts jurisdiction to try and punish for offenses other than those within the category of the law of war. The said *Crimes against Peace* are admittedly not encompassed within the law of war and hence the actions taken by the Executive or military authorities thereunder in the creation, or participation in the creation of the International Military Tribunal for the Far East are unconstitutional and void.

25. The action of the Executive or military authorities thereunder in creating or participating in the creation of said International Military Tribunal for the Far East and the creation or participation in the creation of the announcement of law contained in said Charter thereof, being without the dignity of treaty as its basis, was further unconstitutional and void in that it infringes upon the power and right of the Congress of the United States and the individual members thereof to decide when a given factual situation demands resort by the United States to a war in self-defense. The right of the Congress of the United States and the

individual members thereof to rely upon pre-existing international law, and especially that contained and expressed in the notes of the United States accompanying the execution and ratification of the Pact of Paris of 1928 regarding the question of resort to war in self-defense, is usurped by the Executive and military commitment of the United States to participate in the International Military Tribunal for the Far East. The majority ruling of said Tribunal, adhered to by the American Justice thereof, decreed,

"The right of self-defense does not confer upon the State resorting to war the authority to make a final determination upon the justification for its action."

26. The Constitution of the United States which delegates to the Congress of the United States the right to define and punish for Offenses against the Law of Nations also expressly prohibits the enactment of *ex post facto* laws. The alleged offense of *Crimes against Peace* was set forth, defined, and made punishable for the first time after the perpetration of the alleged acts of petitioners herein and hence is *ex post facto* in nature. The Executive and the military authorities thereunder in creating, or participating in the creation of, such *ex post facto* legislation did that which even the Congress of the United States could not do and hence acted without the sanction of constitutionality and to the injury and prejudice of these petitioners, and each of them.

27. The action of the said General of the Army, Douglas MacArthur in creating and proclaiming the International Military Tribunal for the Far East and the Charter thereof was further unconstitutional and void in that from the language of said Proclamation itself

the petitioners, and each of them, were deprived of a fair and impartial trial. In the first sentence of said Proclamation are contained the words:

"WHEREAS, the United States and the Nations allied therewith in opposing the illegal wars of aggression of the Axis Nations * * *."

Japan being a member of the Axis Nations and the petitioners herein being connected with the Japanese Government, said statement of the Supreme Commander for the Allied Powers foreclosed the issue, insofar as the Tribunal was concerned, of whether Japan waged an aggressive war. The Charter of the Tribunal created in conjunction with this Proclamation, as aforesaid, declares aggressive war to be a crime for which individual liability attaches. The Proclamation of General Douglas MacArthur, Supreme Commander for the Allied Powers, in creating said Tribunal was the source of life for said Tribunal and its utterances binding upon them. The Charter of said Tribunal was likewise binding upon said Tribunal, as aforesaid. Petitioners show to this Honorable Court that because these two determinations were pre-imposed upon the Tribunal, to wit, (1) that Japan waged an aggressive war, and, (2) that aggressive war is a crime, the said Tribunal was relegated to a mere fact-finding body with inquiry confined to the participation of these petitioners in the governmental affairs of their country during the period set forth in the Indictment.

28. The Justices of the said International Military Tribunal for the Far East were all citizens and subjects of nations at war with Japan. Although said Justices were acting in their individual capacity and pur-

portedly governed by their own discretion insofar as the Charter of the said Tribunal permitted, their respective governments, having politically decided and declared Japan to have been guilty of waging aggressive war, said Justices were prevented from exercising impartial and unprejudiced views, to the injury and prejudice of petitioners.

29. Petitioners were further deprived of a fair and impartial trial in that at the commencement of said trial the Tribunal refused to allow challenges for cause to be made to the individual members of said Tribunal, giving as reason therefor that the constitution of the Tribunal and appointment of the respective justices thereof had been directed by General Douglas MacArthur, Supreme Commander for the Allied Powers, and, hence, foreclosed the right of the Defense to challenge the capacity of the members of said Tribunal. The right to challenge a judge for cause is possessed by all defendants triable before courts of the United States, either civil or military.

30. The Potsdam Declaration of July 20, 1945, promised that,

"Stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners."

The Instrument of Surrender of September 2, 1945, adhering to the terms of the Potsdam Declaration, did not foreclose the right of these petitioners, and each of them, as subjects of a sovereign nation, to rely upon and demand the right of trial based upon existing international law. Said agreement above referred to, or any other agreements executed by and between the nations allied in war against Japan, did not and could

not deprive these petitioners, and each of them, of their pre-existing rights under international law. The creation of the category of offenses known as *Crimes against Peace* by the Executive of the United States or the military authorities thereunder, or the participation in the creation of same, was in violation of existing international law, in violation of the laws and constitution of the United States and to the injury and prejudice of these petitioners.

31. Not only was the Tribunal and Charter created by American authority and direction alone, as aforesaid, but the Chief of Counsel in full charge of the prosecution of said case against petitioners was supplied by the United States and is a citizen of the United States. One of the members of said Tribunal was supplied by the United States, and is a citizen of the United States, and the others, although citizens and subjects of other allied nations, were appointed by said General of the Army, Douglas MacArthur, a citizen of the United States, under the direction and color of authority as aforesaid of the Joint Chiefs of Staff of the United States. Petitioners have been at all times during the pendency of the trial and at the present time are in the sole custody of officers and men of the Armed Forces of the United States, as aforesaid. The jurisdictional questions presented herein were raised at various times during the course of the trial and were rejected by the Tribunal.

WHEREFORE, petitioners respectfully pray:

(a) That in its deliberation on the allowance of original jurisdiction to hear this petition for *habeas corpus*, this Honorable Court fully consider the exigency of the occa-

sion, the unprecedented and unparalleled nature of the subject matter, the vital and momentous constitutional questions brought into issue and the need for judicial determination of the right and power of the Executive and military authorities thereunder to act as hereinbefore set out.

(b) That this Honorable Court declare and decree that the acts done and the steps taken by the Executive of the United States and military authorities thereunder as herein complained of are unconstitutional and void,

(c) That pending the submission of a supporting brief to this petition and the preparation of argument in its behalf, this Honorable Court order and require the defendants herein named to direct and command General of the Army Douglas MacArthur to withhold any action contemplated in the carrying out of the sentences imposed upon your petitioners by the International Military Tribunal for the Far East until further order of this Honorable Court,

(d) That defendants be directed to afford counsel the necessary facilities for the furtherance of this action before this Honorable Court,

(e) That the original jurisdiction of this Court be invoked in this cause and that upon final determination of the issues herein raised writs of *habeas corpus* be issued to the defendants herein named, and each of them, but petitioners waive the production of their persons before this Honorable Court.

(f) And that this Honorable Court issue such further orders and render such relief as deemed necessary the premises considered.

All of which is most respectfully submitted.

KOICHI KIDO

TAKASUMI OKA

KENRYO SATO

SHIGETARO SHIMADA

SHIGENORI TOGO

by their attorney and next friend
WILLIAM LOGAN, JR.
120 Broadway
New York 5, New York

JOHN W. CRANDALL
Attorney for Petitioners
120 Broadway, New York 5, New York

WILLIAM LOGAN, JR., 120 Broadway, New York 5, New York,

JOHN G. BRANNON, War Ministry Building, Tokyo, Japan,

BEN BRUCE BLAKENEY, War Ministry Building, Tokyo, Japan,

JAMES N. FREEMAN, War Ministry Building, Tokyo, Japan,

of Counsel.

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:

WILLIAM LOGAN, JR., being first duly sworn, according to law, upon oath, deposes and says that he was a duly appointed American Defense Counsel in the major trial of alleged war criminals before the International Military

Tribunal for the Far East; that the Petitioners, Koichi Kido, Takasumi Oka, Kenryo Sato, Shigetaro Shimada and Shigenori Togo, are now confined in Sugamo Prison, in Tokyo, Japan; by reason of the peculiar circumstances of the case and because of considerations of distance and time, there has not been, and will not be, sufficient time to forward this Petition to the Petitioners, for their signature and oath; that because of the foregoing, this Petition has been executed by Affiant, instead of Petitioners; that Affiant has read the foregoing Petition and upon information and belief verily believes the same to be true. Affiant further states that this Petition is filed in good faith without any purpose of delay.

William Logan, Jr., Attorney and next friend for Petitioners, Koichi Kido, Takasumi Oka, Kenryo Sato, Shigetaro Shimada and Shigenori Togo.

Subscribed and sworn to before me this first day of December, 1948.

Robert M. Donohue
Attorney and Counsellor-at-Law
120 Broadway, New York 5, N. Y.
Residing & Apptd. in Westchester Co.
Certificates filed in
N. Y. Co. Clk. No. 601, Reg. No. A545-D-9
Bronx Co. Clk. No. 1, Reg. No. A-190-D-9
Commission Expires March 30, 1949

Affidavit In *Forma Pauperis*

IN THE

SUPREME COURT OF THE UNITED STATES

Misc. No. 248

KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETARO SHIMADA and SHIGENORI TOGO, citizens and nationals of Japan, appearing by their attorney and next friend, William Logan, Jr.,

Petitioners,

vs.

General of the Army Douglas MacArthur, individually and as General of the Army of the United States in the Military Occupied Territory of Japan and as Supreme Commander for the Allied Powers; *et al.*,

Defendants.

State of New York, }
County of New York, } ss.:

WILLIAM LOGAN, JR., being first duly sworn according to law, upon oath deposes and says that he is a citizen of the United States, a resident of the State of New Jersey, attorney of law of the States of New York and New Jersey, that he served as American defense counsel in the major trial of alleged war criminals before the International Military Tribunal for the Far East at Tokyo, Japan, and is well acquainted with the Petitioners, Koichi Kido, Takasumi Oka, Kenryo Sato, Shigetaro Shimada and Shigenori Togo, who are now and for some time past have been imprisoned at Sugamo Prison in Tokyo, Japan; the said petitioners Koichi Kido, Takasumi Oka, Kenryo Sato,

Affidavit in Forma Pauperis

Shigetaro Shimada and Shigenori Togo, have no funds or property of any kind available for the pre-payment or final payment of the costs to accrue in connection with the filing and prosecution of the annexed Petition for a Writ of Habeas Corpus; and furthermore that any funds the petitioners might be able to raise through friends could not be transmitted to this country under present occupation regulations.

WILLIAM LOGAN, JR.,
120 Broadway,
New York 5, New York.

Subscribed and sworn to before me this
1st day of December, 1948.

HELEN F. TUOHY
Attorney & Counsellor at Law
120 Broadway, New York, N. Y.
Residing in New York County
N. Y. Co. Clk's No. 52, Reg. No. A62-T-0
Commission Expires March 30, 1950

(Seal)